

Havant Borough Council
Development Control
Civic Offices
Civic Centre Road
Havant
Hampshire
PO9 2AX

Our ref: HA/2022/124510/01-L01
Your ref: APP/22/00822
Date: 17 October 2022

Dear Planning Team,

EXTENSION TO EXISTING PONTOONS. BOATYARD, MARINE WALK, HAYLING ISLAND, PO11 9PG

Thank you for consulting the Environment Agency on the above application.

We have reviewed the information as submitted and set out our position below.

Environment Agency Position

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In the absence of any information to demonstrate that the proposals are compliant with the Water Framework Directive (WFD), we are unable to provide comments on the proposals and **object** to the proposal.

Reasons

The WFD requires no deterioration of watercourses, and to achieve good ecological status or good ecological potential in WFD water bodies. This includes any of the individual quality elements contributing to the water body status.

The proposed development has the potential to impact WFD objectives in the water body.

As the application is not supported by information to demonstrate compliance with WFD, it does not provide an adequate basis on which to make a decision. We are unable to provide comments and strongly recommend that you do not approve the application until WFD compliance has been demonstrated.

A WFD Assessment should comprise either:

- an explanation of why the activity has been screened out; or
- an explanation of why all elements have been scoped out, ideally using the scoping template; or
- an impact assessment.

The 'Clearing the Waters for All' guidance should be used for guidance on how to assess the impact of the proposals on WFD compliance:

<https://www.gov.uk/guidance/water-framework-directive-assessment-estuarine-and-coastal-waters>

The size and scale of the WFD Assessment should be proportional to the risk posed by the potential works, but the Applicant must demonstrate that they have assessed the risks and provided mitigation where necessary.

Overcoming our objection

To overcome our objection, the Applicant should submit a WFD assessment which adequately demonstrates compliance with WFD. Please re-consult us on any further information submitted and we will respond within 21 days of receiving it.

The comments below will further assist the Applicant complete a WFD assessment.

For the WFD **water quality** element, which we will consider with any supporting WFD assessment supplied, we would recommend the Applicant considers the following advice:

1. The main risks to water quality may arise from the release of chemical or biological contaminants from the sediment into the water column during placement of pontoons, either at high tide (i.e., when maneuvering pontoons into position when sediment may be disturbed) or by disturbing sediment at low water.

Biological contaminants of concern would be any material of faecal origin since these have potential to affect the quality of designated Shellfish Waters, or designated Bathing Waters. Since the area is used by boats, there is potential that they are discharging sewage, and as such local sediments may contain faecal bacteria. In some cases, waterfowl use of mudflats can also contribute to faecal bacteria of avian origin that can affect bathing water quality. It will be important to consider where the nearest bathing waters and shellfish waters are in relation to the activity, how much sediment might be re-mobilised, and whether sufficient dilution within the waterbody exists such that the biological risks to water quality elements are low enough not to endanger WFD compliance.

Chemical contaminants are likely to be present within any sediments disturbed. These may include regulated substances covered by WFD and the Environment Quality Standards Directive (EQSD). The activity will need to be able to demonstrate

that it will neither cause the waterbody to fail for any of these regulated chemicals, nor cause any already failing chemical concentrations to worsen significantly (we are considering a 3% or greater increase in annual average concentration as significant).

2. As the water body is large, dilution capacity will also be large, so small quantities of sediments of a few cubic metres will cause trivial changes to water column concentrations. However, it will be important to characterise the amount of sediment likely to be disturbed to provide evidence that any impact will be acceptably low.

The 'scoping' stage of WFD assessment is there to identify a possible pathway to an impact, but the 'impact assessment' is where the *scale* of that possible impact is considered. For activities such as this which will cause sediment disturbance, within the WFD scoping form for water quality it is often simpler to answer 'yes' to disturbance of sediment, and 'yes' to the presence of EQSD chemicals or CEFAS list chemicals (above action level 1) on a precautionary basis, and move directly to arguing WFD compliance based on the small size of impact at the impact assessment stage.

Advice to the Local Planning Authority and Applicant

Intertidal Habitat

The placement of more pontoons will lead to the "bottoming out" (at low tide) of the pontoon footings on currently undisturbed areas of intertidal foreshore, and these areas will suffer daily disturbance to the intertidal habitat. This can increase erosion and this area has not been factored into the ecological assessment. The total area may be relatively modest relative to the habitat already present within the waterbody, but it may be something that requires consideration for further mitigation and/or compensation to prevent net loss. The Local Planning Authority may wish to consult their ecologist further on this matter.

Advice to the Applicant

Marine Licence

For any activities (including construction, dredging and removals) below the mean high water springs mark, a marine licence may be required from the Marine Management Organisation (MMO).

Please note that the requirement for a marine licence is separate from planning permission.

You are advised to contact the MMO at the earliest opportunity to discuss making an application on **0191 376 2791** (9am to 4.30pm Monday to Thursday, 9am to 4pm on Friday).

Further details can also be found on the MMO website –

<https://www.gov.uk/government/organisations/marine-management-organisation/services-information>.

A WFD assessment should accompany any marine license application.

Please do not hesitate to contact me using the contact details shown below should you have any queries regarding the above information.

Yours faithfully

Mrs Sophie Brown
Sustainable Places Planning Advisor

Direct dial 0203 0257 250

Direct e-mail planningSSD@environment-agency.gov.uk